

EXHIBIT 5

1 DR. HUSSEIN HAMID HASSAN

2
3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEW YORK

5 03 MDL 1570 (GBD) ECF CASE

6 -----
7 In re Terrorist Attacks on September 11, 2001
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13 Videotaped Deposition of DR. HUSSEIN HAMID HASSAN, Volume 1,
14 taken by AILSA WILLIAMS, Certified Court Reporter, held at
15 the offices of Jones Day LLP, London, UK, on 1 August, 2017
16 at 8:37 am
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25 Job No. 127592

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13 JUAN MORILLO : QUINN EMANUEL

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15 VIDEOGRAPHER: MANU ROSSI
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DR. HUSSEIN HAMID HASSAN

I N D E X

DR. HUSSEIN HAMID HASSAN

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1 DR. HUSSEIN HAMID HASSAN

2 bank and I know something about how the bank
3 functions. But of course the interior management,
4 administration, I am not familiar. I am not
5 involved with in the management day-to-day care or
6 management of the bank.

7 Q. To ask a somewhat obvious question,
8 is Dubai Islamic Bank organized as an Islamic
9 bank?

10 A. Yes.

11 Q. Given that structure, does Dubai
12 Islamic Bank have a requirement to comply with
13 shariah?

14 A. Yes.

15 Q. Is it the ultimate responsibility of
16 the Fatwa and Shariah Oversight Board to determine
17 if the bank is complying with shariah?

18 A. The role of the -- I may explain it
19 like that. Any transaction, any activities,
20 agreements, contracts, to be shariah compliant, it
21 should be consistent with Islamic law, and this is
22 the role of the Shariah Board. Should be legally
23 valid and enforceable, the contract, and this is
24 the legal department of the bank. Should be
25 commercially viable, which means profitable,

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2 Article -- this is the Board of Shariah Board's
3 functions, duties. Then I came through these
4 documents.

5 Q. Just to clarify, you recall having
6 reviewed these documents around the time you
7 joined the Shariah Board in 1998 or so?

8 A. I came to at that time, because this
9 maybe changed from time to time, changed from time
10 to time, but I am acquainted with the Articles of
11 Association and the Memorandum of Association at
12 1989. After that, I was not following.

13 Q. I think you may have just misstated
14 a date inadvertently, Dr. Hassan. You just
15 mentioned that you were familiar with it as of
16 1989. Did you mean to say 1998, when you joined
17 the Shariah Board?

18 A. 98, yes. Yes.

19 Q. Do you happen know when Dubai
20 Islamic Bank was established?

21 A. 1975.

22 Q. And where is it headquartered today?

23 A. Excuse me?

24 Q. Where is it headquartered?

25 A. In Dubai.

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DR. HUSSEIN HAMID HASSAN

I N D E X

HUSSEIN HAMID HASSAN (Cont.)

EXAMINATION BY MR. COTTREAU: Pg. 144

1 DR. HUSSEIN HAMID HASSAN

2 that he is a prophet, means a messenger of Allah
3 sent to human beings. I mean his parents call him
4 Mohammed, this is his name after he was born, but
5 we say he is a messenger, after he was sent as
6 a messenger.

7 Q. In the Islamic religion, who sent
8 Mohammed as a messenger?

9 A. God.

10 Q. We have talked about your role as an
11 Islamic scholar a little bit. Does Islamic mean
12 the same thing as shariah?

13 A. Islamic law means shariah, and
14 shariah means Islamic law.

15 Q. What is Islamic law?

16 A. Islamic law are the rules,
17 regulations governing the people's activities,
18 behaviors, revealed from Allah to his Prophet
19 Mohammed. It means the source is from Allah, not
20 human source.

21 Q. Let me ask it this way. As an
22 Islamic scholar, do you believe that there are
23 legal principles that come from the Islamic
24 religion?

25 A. Yes.

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2 Q. I am sorry, if I could, just for the
3 court reporter's sake, if you can wait until
4 I finish the question.

5 Do you have an opinion on the terrorist attacks
6 of September 11, 2001?

7 A. Yes.

8 MR. CARTER: Objection, form.

9 MR. HAEFELE: Objection.

10 Q. Do you have a personal opinion about
11 whether it was a good thing that the terrorist
12 attacks of September 11, 2001 happened?

13 MR. HAEFELE: Objection, form.

14 A. It was the most criminal act
15 committed to innocent people.

16 Q. You believe that the terrorist
17 attacks of September 11 was a criminal act?

18 A. Criminal. The most criminal act.

19 Q. Most criminal act?

20 MR. CARTER: Objection.

21 A. I mean, if you have something more
22 than criminal act, it is crime against humanity,
23 against humanity. It should not be like a simple
24 criminal case or criminal act.

25 Q. Did anyone deserve to die as

1 DR. HUSSEIN HAMID HASSAN

2 Q. Have you ever tried to help Alqaeda
3 in any way?

4 A. No.

5 Q. From what you have read in the
6 media, do you believe that Alqaeda is a terrorist
7 group?

8 A. Yes.

9 Q. Why do you believe that?

10 A. Because if the news, the media,
11 repeatedly, many times all over the world, then
12 this leads anyone to believe that this is true,
13 that Alqaeda is terrorist organization. I have
14 reason to believe it. I have reason to believe
15 it, because this is repeated many times, many
16 occasions. Then, one should -- we are living in
17 the world, and one has good reason to believe that
18 Alqaeda is a terrorist organization.

19 Q. From what you have read in the
20 media, what is your opinion about Alqaeda
21 committing terrorist attacks?

22 MR. CARTER: Objection.

23 A. They are criminals. They are
24 criminals.

25 Q. Some terrorists believe that

1 DR. HUSSEIN HAMID HASSAN
2 clients in profits and losses and justice,
3 fairness and equality are not based on interest.
4 The Islamic bank is not giving interest to its
5 depositors. It is not taking interest from its
6 clients who are seeking finance. Just to give --

7 Q. Dr. Hassan, if I could just ask
8 this. Where is Dubai Islamic Bank based?

9 A. In Dubai, in Emirate of Dubai.

10 Q. Is Dubai in the United Arab
11 Emirates?

12 A. Yes.

13 Q. Do you hold a position with Dubai
14 Islamic Bank?

15 A. Yes.

16 Q. What is that position?

17 A. Chairman of the Shariah Board of
18 Fatwa and Supervision.

19 Q. Are you the Chairman of Dubai
20 Islamic Bank's Fatwa and Shariah Supervisory
21 Board?

22 MR. HAEFELE: Object to the form.

23 A. Yes.

24 Q. I am going to refer to DIB's Fatwa
25 and Shariah Supervisory Board as "Shariah Board",

1 DR. HUSSEIN HAMID HASSAN

2 okay?

3 A. Yes.

4 Q. When did you become the Chairman of
5 Dubai Islamic Bank's Fatwa and Shariah Supervisory
6 Board?

7 MR. HAEFELE: Objection, form.

8 A. In 1998.

9 MR. COTTREAU: I am sorry, if I can hold
10 on one second. You made a form objection. What
11 was the form objection?

12 MR. HAEFELE: It is leading.

13 MR. COTTREAU: You believe the question
14 "when did you become the Chairman of Dubai Islamic
15 Bank's Fatwa and Shariah Supervisory Board" is
16 leading?

17 MR. HAEFELE: Yes, because he testified
18 that he was the Chairman of the Supervisory Board
19 of Fatwa and Supervision. You were feeding him
20 a portion of the answer to the question.

21 MR. COTTREAU: There is nothing leading
22 about that question, Mr. Haefele.

23 MR. HAEFELE: Okay. All right, I would
24 say it mischaracterizes his testimony.

25 MR. COTTREAU: That was not your

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2 objection and it is too late.

3 MR. HAEFELE: No, there is no other
4 question pending.

5 MR. COTTREAU: Have you served
6 continuously as the Chairman of DIB's Shariah
7 Board since 1998?

8 A. Yes.

9 Q. Prior to becoming Chairman of Dubai
10 Islamic Bank's Shariah Board, did you have any
11 other roles at Dubai Islamic Bank?

12 A. No.

13 Q. Prior to becoming Chairman of Dubai
14 Islamic Bank's Shariah Board, did you ever give
15 any training to Dubai Islamic Bank employees?

16 A. Yes.

17 Q. When did you provide training to
18 Dubai Islamic Bank employees?

19 A. I may recall. Around 1976/77.

20 Q. Do you recall what you trained
21 employees about in 1976 or 1977?

22 A. Again?

23 Q. Do you recall the topics on which
24 you trained employees in 1976 or 1977?

25 A. It was how to train the new

1 DR. HUSSEIN HAMID HASSAN

2 MR. COTTREAU: Dr. Hassan, what is
3 Islamic banking?

4 A. Islamic banking is banking, as we
5 know, commercial or conventional banking, except
6 that Islamic bankings is based on some principles.
7 The most important of these principles is that
8 instead of dealing with interest it is based on
9 participation in profit and loss, and justice,
10 fairness, equality, and such valuable principles.

11 Q. I want to take each of the
12 principles that you just mentioned that are
13 primary features of Islamic banking, one by one.
14 Is an Islamic bank allowed to charge its customers
15 interest?

16 A. No.

17 Q. How does it work then, if a customer
18 comes to a bank and would like to purchase, say,
19 a home?

20 A. When the bank receive depositors,
21 and they want to invest, to open investment
22 account or saving, saving account, the bank is not
23 giving them interest, but the bank invests their
24 deposits with the shareholders' capital, equity,
25 and then agree to distribute the profit, if any,

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2 and to share the loss if any. This is from one
3 side. When the bank utilize these deposits, the
4 bank finance its customers, not on the basis of
5 lending/borrowing, no. No such contract of law.
6 No lending, no borrowing. But on the same
7 principle of participation. Let's say you have
8 a project, you carried a feasibility study, and
9 you want to establish this project but you don't
10 have funds. You go to an Islamic bank. The
11 Islamic bank will enter into participation with
12 you, will provide you with the capital of the
13 project, with the finance, on the condition that
14 if you get profit it will be distributed between
15 the bank and the customer. If there is a loss,
16 the bank will lose its financing, its principal
17 capital, and the customer will lose only its
18 fault, its work. It means, we used to say, that
19 Islamic banking is risk sharing and not risk
20 shifting, while if you go to a conventional bank,
21 just to make it clear, the conventional bank will
22 give you a loan with interest, and you should
23 return the loan with the interest. Even if you
24 lose in your project, you bear the risk alone, the
25 loss' alone and the bank should get the profit in

1 DR. HUSSEIN HAMID HASSAN

2 all cases. This is Islamic banking in short, but
3 there are many other things.

4 MR. HAEFELE: Objection, non-responsive.
5 Move to strike.

6 Q. Is Islamic banking the same as
7 shariah banking?

8 A. Yes.

9 Q. And what is shariah?

10 A. Shariah means Islamic law, revealed
11 from God to his Prophet Mohammed, to convey it to
12 its followers.

13 Q. The prohibition of charging
14 customers interest in Islamic finance that you
15 mentioned, does that prohibition come from shariah
16 law?

17 A. Yes.

18 Q. You mentioned a couple of other
19 principles that were features of Islamic banking
20 one of which was fairness. How does that
21 principle play in Islamic banking?

22 A. Yes, fairness, for example,
23 according to Islamic finance, you can't sell what
24 you don't own. Before you sell any asset, you
25 should have title, you should have possession.

1 DR. HUSSEIN HAMID HASSAN

2 That means that short to say, for example, in the
3 conventional banking is not allowed under shariah,
4 because to get price or to sell something which
5 you don't own is not justice, is not fair. If you
6 just buy something and pay price while the seller
7 is not able to deliver it to you, because he has
8 no possession of this thing, this is called
9 fairness and justice. If you give price you
10 should get the subject of the sale. If you lease
11 an asset, if there is a total loss of the asset,
12 rent should stop, because rent is for use. Total
13 loss means that a contract terminates. It
14 terminates. No interest, no rent is to be paid.
15 Just I am giving examples. But it is a set of
16 code of justice, ethics, should be done in Islamic
17 financing.

18 Q. In Islamic banking, is an Islamic
19 bank allowed to overcharge customers?

20 A. No.

21 Q. Is overcharging customers prohibited
22 by Islamic law?

23 MR. CARTER: Objection, form.

24 A. Yes.

25 Q. Under Islamic law, can an Islamic

1 DR. HUSSEIN HAMID HASSAN

2 bank hide facts from its customers that are
3 relevant to transactions?

4 A. Again, again?

5 Q. Sure. Under Islamic law, can an
6 Islamic bank hide facts from its customers?

7 A. No. It is deceit and it is
8 prohibited.

9 Q. Besides the prohibition on interest
10 and the concepts that you have mentioned of
11 justice, fairness and equality, are there any
12 other primary features of Islamic banking?

13 A. As I said, the most important
14 feature is, as I said, the risk sharing, and not
15 risk shifting, because this is the most important
16 principle. We, in Islamic financing, consider it
17 injustice just for the human being's values if you
18 think and you have a project, and you want to
19 finance it, if you seek finance with interest,
20 means the whole cost and risk will be borne by
21 you, while you have ideas good to develop the
22 country, but you don't have money, but Islamic
23 banking considers your thinking, your idea, your
24 knowledge, your act is equal, humanly equal to any
25 capital.

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2 MR. HAEFELE: Objection, non-responsive.

3 Move to strike.

4 Q. As I understand your testimony then,
5 the most important features in your opinion of
6 Islamic banking is that it prohibits interest,
7 that it requires risk sharing and not risk
8 shifting and that it has to promote justice,
9 fairness and equality. Is that accurate?

10 MR. CARTER: Objection, form.

11 A. Yes.

12 Q. What is the role of a Shariah Board
13 in Islamic finance?

14 A. The role is to make sure that the
15 cases referred to it or submitted to it is decided
16 giving shariah opinions, which are consistent with
17 Islamic law.

18 Q. Let's talk about Dubai Islamic Bank
19 Shariah Board for a few minutes.

20 A. Yes.

21 Q. During your tenure and your time at
22 Dubai Islamic Bank Shariah Board, did you and your
23 fellow Board members have to review all new
24 contracts that Dubai Islamic Bank was going to be
25 entering into with its customers?

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2 A. Again?

3 Q. Sure. During your time at Dubai
4 Islamic Bank, did you have to look at all new
5 contracts that the bank was going to be entering
6 into with customers?

7 A. No.

8 Q. What contracts did you have to look
9 at?

10 A. All kinds of financing contracts.
11 We approve a contract, not in specific names or
12 specific customers, but forms. We approve forms,
13 specie contracts and then for the bank to apply.

14 Q. Does the bank have contracts with
15 its customers who have checking accounts?

16 A. Yes.

17 Q. Did you have to apply -- let me ask
18 it this way and start again.

19 Did you have to approve the form of the
20 contract that Dubai Islamic Bank would have with
21 its checking account customers?

22 A. Yes.

23 Q. When you approve contracts that
24 Dubai Islamic Bank is going to enter into with
25 customers, do you issue a written opinion, as the

1 DR. HUSSEIN HAMID HASSAN

2 Board?

3 A. Yes.

4 Q. Is there a name for the written
5 opinion on whether the bank can issue a contract
6 or not?

7 A. Again?

8 Q. Let me ask it this way. What is
9 a fatwa, as that term is used at Dubai Islamic
10 Bank?

11 A. Islamic law opinion on a case
12 submitted to the Shariah Board.

13 Q. Is the Islamic law opinion on cases
14 submitted to Dubai Islamic Bank Shariah Board in
15 writing?

16 A. In writing?

17 Q. Do you and your fellow Board members
18 collectively draft fatwas or Islamic law opinions
19 at Dubai Islamic Bank?

20 A. Yes.

21 Q. In reviewing contracts at Dubai
22 Islamic Bank, do you sometimes reject them as not
23 being fair to the customer?

24 A. Yes.

25 Q. Do you sometimes reject contracts

1 DR. HUSSEIN HAMID HASSAN

2 during your review at Dubai Islamic Bank because

3 they are not transparent to the customer?

4 MR. CARTER: Objection, form.

5 A. Yes.

6 Q. Do you know whose idea it was to
7 start Dubai Islamic Bank?

8 A. What?

9 Q. Do you know whose idea it was to
10 start Dubai Islamic Bank?

11 MR. CARTER: Objection, foundation.

12 A. Sheikh Sayeed Lootah.

13 Q. Who is Sheikh Sayeed Lootah?

14 A. He is a businessman, Emirati
15 national, and he is a learned man.

16 Q. He is a real what?

17 A. Learned man, a learned man.

18 Q. Learned?

19 A. Learned man.

20 Q. Does that mean educated?

21 A. It means that he is aware, involved
22 with Islamic financing, Islamic banking, that
23 interest is prohibited, so some alternative should
24 be done. To think of that means he is not normal
25 businessman, he is someone who is learned. I mean

1 DR. HUSSEIN HAMID HASSAN

2 Q. Has anyone ever told you at any time
3 in your career that Dubai Islamic Bank wanted to
4 promote terrorism?

5 A. No.

6 Q. Has anybody ever told you in all of
7 your career that Dubai Islamic Bank should help
8 terrorists?

9 A. No.

10 Q. When Dubai Islamic Bank was founded,
11 in approximately 1975, to your knowledge, was it
12 the only Islamic bank in the world?

13 MR. CARTER: Objection, form,
14 foundation.

15 A. Yes.

16 Q. When you conducted training at Dubai
17 Islamic Bank, in approximately 1976 or 1977, was
18 Dubai Islamic Bank the only Islamic bank in the
19 world, to your knowledge?

20 A. Yes, but before Dubai Islamic Bank
21 there was an attempt by an Egyptian person, banker
22 called Mohamed Al Nagar. Mohamed Al Nagar studied
23 PhD in Germany, and he studied cooperative
24 banking, which is almost similar to Islamic
25 banking, operating not on interest basis but on